

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

LAMINE ZEROUAL
Pro se litigant

Plaintiff

vs.

JOHN ASCHROFT
In his official capacity

And, TOM RIDGE
In his official capacity

And, EDUARDO AGUIRRE
In his official capacity

And

DENNIS C RIORDAN
In his official capacity

Replacing

STEVEN J FARQUHARSON
In his official capacity

Defendants

PLAINTIFF MOTION FOR LEAVE TO AMEND A COMPLAIN AND SUBSITUTE A PARTY

COME NOW Plaintiff LAMINE ZEROUAL PRO SE hereby petitioned this honorable court for a motion for leave to amend a complaint and substitute a party pursuant to rule 15 of the Federal Rule of Civil Procedure and rule 15.1(b) of the local rule.

In support of this Motion, the Plaintiff state that:

- a) No prejudice will result to the defendants by the granting of this Motion, as they will have adequate time to respond to the amended complaint.
- b) Great prejudice will be suffered by the plaintiff if his precluded from amending his pleadings
- c) Plaintiff just became aware that one of the defendants STEVEN J FARQUHARSON is no longer the acting district director for the United States Citizenship and Immigrations service (USCIS) for the Boston district he was replaced by DENNIS C RIORDAN who is the acting district director for USCIS for the Boston district as of January 18, 2004

FILED
CLERK'S OFFICE
MAR 23 P 12:16
DISTRICT COURT
OF MASS.

FACTS

1. Plaintiff filed his Complaint in this Court on November 14, 2004.
2. The Defendants requested to extend the filing of its answer up to and including March 31, 2004, and the court accepted their motion for time to extend on March 2, 2004
3. The Defendants have not filed their Answer, The parties have not yet met to prepare the Case Management Report and this Court has not yet issued a Case Management Order. Neither party has engaged in discovery.

MOTION

4. Plaintiff seek leave of this Court to file an Amended Complaint, to amend his original Complaint to seek a hearing on naturalization application pursuant to 8 USC 1447(a) in addition to the remedies sought in the original complaint.
5. Plaintiffs seek leave of this Court to substitute defendants because plaintiff just became aware that one of the defendants is no longer holding an official capacity.
6. A copy of the proposed Amended Complaint is attached hereto as Exhibit "A" and Exhibit "B" and is incorporated herein by reference.
7. In accordance with Local Rule 7.1 (a), the Plaintiff has conferred with opposing counsel in a good faith effort to resolve the issues raised by this Motion. The most recent discussion with opposing counsel occurred on Friday march 19, 2004, at which time the undersigned was advised that opposing counsel would not oppose this motion for leave to file an amended complaint.
8. Plaintiff submits that allowing him to amend his Complaint is in the interest of justice. Plaintiff can then include an alternative new claim for expeditious relief for the same cause of action without the time and expense of having to file a new action and serve the Defendants again.
9. Federal Rule of Civil Procedure rule 15 governs amended pleadings. It states, in pertinent part, that a party may amend his pleading once as a matter of course at any time before a responsive pleading is served, otherwise, a party may amend his pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires.
10. Since Defendants have not served a responsive pleading to the Complaint, Plaintiff would be free to amend it as a matter of course. Plaintiff is seeking leave of court in the abundance of caution.
11. Allowing Plaintiff to amend the Complaint and to serve the Amended Complaint will not prejudice the rights of Defendant. Defendants have already been personally served with the original Summons and Complaint as evidenced by proof of service on file with the Court.

WHEREFORE

Plaintiffs respectfully request this court for an order allowing him to amend his Complaint and for the other relief and to substitute a party.

Respectfully submitted,

Lamine Zeroual Pro Se

